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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,128	12/30/2000	Yosef Freedlan	JST-15	1786
24039	7590	06/15/2004	EXAMINER	
INNOVAR, LLC P O BOX 250647 PLANO, TX 75025			ODLAND, KATHRYN P	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 06/15/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/753,128

Applicant(s)

FREEDLAN, YOSEF

Examiner

Kathryn Odland

Art Unit

3743

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 11 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

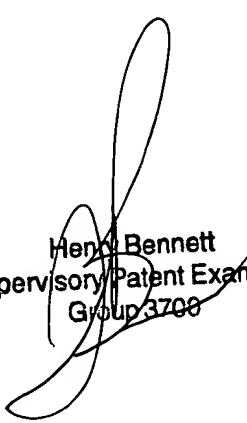
Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: The examiner has reviewed applicants interview summary and has discussed the issues with other authorities in the office. Applicant's arguments are centered on a related patent issued to applicant that shows similar inventions to that claimed in the instant application. The inventions shown in Patent No. 6,162,234 are different from the claimed invention and do not correct the deficiencies of the current application. Also, applicant states, "Examiner and Supervisory Patent Examiner Bennett accepted the above arguments and agreed that the instant invention is novel with regard to Seegmiller et al., (U.P. Patent No. 5,525,013)." However, no such agreement was made. Moreover, applicant is also reminded that it is improper to claims the body and/or body portions. Thus, the proposed claim amendments would be improper under 35 U.S.C 101 in that they positively claim contacting tissue. Appropriate terminology would be "adapted to contact tissue." Further, it is agreed that the current application does provide adequate support for the medical environment. However, certain species of the current application invention split-nut are shown inside a cup member inside the body and it was not originally disclosed that or how the elected species contacts tissue. Nonetheless, applicant has failed to recite structural features to define over the prior art. Moreover, applicant is directed to US Patent No. 5,525,013 where in column 1 cable sizes were disclosed. Thus, the device of Seegmiller et al. in US Patent No. 5,525,013 is also capable of use in the body and within the scope of the medical environment. Given that Seegmiller et al. is capable and could be adapted to be used in the body, applicant is advised to incorporated additional structural features to define over the prior art.



Henry Bennett
Supervisory Patent Examiner
Group 3700